

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MICHAEL ROSENBAUER, HELMUT JERG,
BERND SCHESSL, and ERNST STICKEL

Application 10/603,759
Technology Center 3600

Mailed: August 24, 2009

Before KRISTA ZELE *Deputy Chief Appeals Administrator*.
ZELE, *Deputy Chief Appeals Administrator*.

ORDER RETURNING UNDOCKETED APPEAL

This application was electronically received by the Board of Patent Appeals and Interferences on December 02, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

APPEAL BRIEF, APPEALED CLAIMS

Appellant has not appealed all rejected claims. Specifically, a review of the Grounds of Rejection on the record finds that rejections are outstanding for the following pending claims: 10-14 and 16-26. The rejected claim that has not been appealed and/or argued for appeal is claim 26.

DISCUSSION

The Board of Appeals and Interferences (Board), in *Ex parte Ghuman*, <http://www.uspto.gov/web/offices/dcom/bpai/prec/rm081175.pdf> (BPAI May 14, 2008) (precedential), held that in appeals where rejected claims are expressly withdrawn, or are implicitly withdrawn by not presenting arguments in support of patentability, the Board will remand (or return) the application to the Examiner with instructions to cancel the expressly or implicitly withdrawn claims. *See also Manual of Patent Examining Procedure* (MPEP) § 1215.03 (8th ed. Rev. 6, Sept 2007).

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

- 1) to enter a paper canceling claim 26; and

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2) upon entry of the paper, to return the application to the Board for the consideration of appealed claims.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797

KZ/jgr

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